

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Telecommunications Carriers Eligible)	WC Docket No. 09-197
for Universal Service Support)	
)	
Lifeline and Link Up Reform and)	WC Docket No. 11-42
Modernization)	
)	

COMMENTS OF NORTHLAND CABLE TELEVISION, INC.

Danielle Frappier
Davis Wright Tremaine LLP
1919 Pennsylvania Ave. NW
Suite 800
Washington, DC 20006

Counsel to Northland Cable Television Inc.

March 16, 2017

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SUMMARY

Northland Cable Television, Inc. (“Northland”) submits these comments in response to two March 2, 2017 Public Notices issued by the Wireline Competition Bureau (“Bureau”) in the above-referenced proceedings. After being designated as a Lifeline Broadband Provider Eligible Telecommunications Carrier (“LBP ETC”) by the Bureau on January 18, 2017, Northland was eager to begin provisioning Lifeline-supported broadband services to consumers across its network. Therefore, Northland was extremely disappointed with the Bureau’s misguided decision to revoke all previously granted LBP ETC designations. As a result, Northland supports the Public Interest Petition for Reconsideration and Spot On Application for Review, and urges the Bureau to reconsider its decision to revoke the previously granted LBP ETC designations, as the Bureau lacked a rational basis for doing so and has unnecessarily prevented several providers from extending “the availability of broadband service for low-income Americans” consistent with the Commission’s stated goals.

Chairman Pai has stated that one of the biggest challenges facing our nation is closing the “digital divide,” and has provided a number of ways he plans to spur broadband deployment in rural areas through his “Digital Empowerment Agenda.” As a provider of facilities-based broadband services in primarily rural areas, Northland is an ideal candidate to advance the Commission’s goals through the LBP ETC designation. Unfortunately, the Bureau chose to revoke all LBP ETC designations through a procedurally improper process on the basis of allegations of widespread waste, fraud and abuse in the Lifeline program that appear to be based on prior issues that have since been resolved since been resolved or a misunderstanding of program procedures. To truly close the digital divide, the Commission needs facilities-based broadband providers that are focused on serving low-income Americans in rural areas. Therefore, Northland urges the Bureau to reconsider its decision to revoke the LBP ETC designations, as the sweeping revocation was clearly against the public interest.

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COMMENTS OF NORTHLAND CABLE TELEVISION, INC.

Northland Cable Television, Inc., and its wholly owned subsidiaries, Northland Cable Properties, Inc., and Northland Cable Ventures LLC, (collectively “Northland”), submits these Comments in response to two March 2, 2017 Public Notices issued by the Wireline Competition Bureau (the “Bureau”) in the above-referenced proceedings.¹ The Public Notices request input on a request for reconsideration filed by multiple public interest groups, as well as an application for review filed by service provider Spot On Networks, LLC, of the Bureau’s reconsideration of the Lifeline Broadband Provider designations.² As an operator of a robust, facilities-based, broadband network that reaches particularly rural and low-income areas in eight states across the country, Northland applauds the Commission’s efforts to extend the Lifeline program to broadband through the *Lifeline Modernization Order*,³ but was extremely disappointed with the Bureau’s decision to revoke all previously granted Lifeline Broadband Provider

¹ *Wireline Competition Bureau Seeks Comment on Request for Reconsideration Concerning Lifeline Broadband Providers*, Public Notice, WC Docket Nos. 09-197, 11-42, DA 17-213 (WCB Mar. 2, 2017) (“Public Interest Groups Public Notice”); *Wireline Competition Bureau Seeks Comment on Application for Review from Spot On Networks, LLC*, Public Notice, WC Docket Nos. 09-197, 11-42, DA 17-212 (WCB Mar. 2, 2017) (“Spot On Public Notice,” together with the Public Interest Groups Public Notice “Public Notices”).

² Letter from Jessica J. Gonzalez, to Chairman Pai, Commissioner Clyburn, Commissioner O’Rielly, WC Docket No. 11-42 (filed Feb. 23, 2017) (“Public Interest Petition for Reconsideration”); Application for Review of Spot On Networks, LLC, WC Dockets 09-197, 11-42 (filed Feb. 24, 2017) (“Spot On Application for Review”).

³ *In Re Lifeline and Link Up Reform and Modernization et al.*, Third Report and Order, Further Report and Order, and Order on Reconsideration, 31 FCC Rcd 3962 (2016) (“*Lifeline Modernization Order*”).

Eligible Telecommunications Carrier (“LBP ETC”) designations, including the now-revoked designation of Northland.⁴ Northland supports the Public Interest Petition for Reconsideration and Spot On Application for Review, and urges the Bureau to reconsider its decision to revoke the previously granted LBP ETC designations, as the Bureau lacked a rational basis for doing so and has unnecessarily prevented several providers from extending “the availability of broadband service for low-income Americans”⁵ consistent with the Commission’s stated goals.

A. Northland is an Ideal Candidate for the LBP ETC Designation and is Perfectly Situated to Expand the Availability of Broadband to Low-Income Households

As a provider of facilities-based broadband services in primarily rural areas, Northland is an ideal candidate for the LBP ETC designation. Northland has been providing facilities-based Internet access services since 2002 in primarily rural areas and smaller cities in the eight states in which it is authorized to provide cable services. Many of Northland’s markets face significant economic challenges. For instance, based on its own research, Northland estimates that 25.3 percent (25.3%), 18.32 percent (18.32%) and 18.3 percent (18.3%) of the homes passed in Northland’s Aliceville, Alabama, Swainsboro, Georgia, and Statesboro, Georgia systems, respectively, receive Supplemental Nutrition Assistance Program benefits, which is one of the qualifying programs to participate in Lifeline. Further, Northland estimates that roughly 42 percent (42%) of the homes it serves are in primarily rural areas.

Northland is exactly the type of provider the Commission hoped would enter the Lifeline program when it issued the *Lifeline Modernization Order*.⁶ It is a facilities-based provider. It would pass through the Lifeline subsidy to eligible subscribers as a discount off a standard, robust broadband service package, resulting in a modest co-pay to the end user. Moreover, Northland does not currently receive any Lifeline

⁴ *In Re Matter of Lifeline and Link Up Reform and Modernization, Telecommunications Carriers Eligible for Universal Service Support, Connect America Fund*, Order on Reconsideration, DA 17-128, 2017 FCC LEXIS 591 (WCB rel. Feb. 3, 2017) (“Revocation Order”).

⁵ *Lifeline Modernization Order*, 31 FCC Rcd at 3971, para. 29.

⁶ The Commission sought to “encourage market entry and increase competition among Lifeline providers,” and expressed a preference for providers offering broadband service at some cost to the consumer. *See id.* at 4003, 4040, paras. 116, 217.

funding, and provides broadband services to roughly 55,000 subscribers across eight states.⁷ Therefore, as an LBP ETC, Northland would not be reliant on the Lifeline program to maintain its financial viability. Collectively, based on its proposed business model for participating in the Lifeline program, the incentives for Northland or its subscribers to engage in waste, fraud, or abuse are extremely low.

Northland is ideally situated to both extend broadband to low-income Americans in rural and underserved areas, and reduce waste, fraud, and abuse in the Lifeline program in furtherance of the Commission's stated goals in the *Lifeline Modernization Order*.⁸ In fact, the Bureau had agreed that Northland met all the statutory and regulatory requirements for an LBP ETC designation when it approved Northland's LBP ETC designation.⁹ Northland is eager to provide focused Lifeline-supported broadband service as an LBP ETC, but the Bureau's hurried decision to revoke its previously issued LBP ETC designations without any rational basis, however, has left Northland without clear guidance on how the Bureau will proceed during its "further review and analysis" of Northland's now-pending LBP ETC Petition.¹⁰ Therefore, Northland supports the Public Interest Petition for Reconsideration and Spot On Application for Review, and urges the Bureau to reconsider its decision to revoke all previously granted LBP ETC designations.

B. The Blanket Ban on the LBP ETC Designation Process Usurps the Bureau's Delegated Authority Pursuant to the *Lifeline Modernization Order*

In its Revocation Order, the Bureau failed to provide a rational basis for revoking the LBP ETC designations it had granted just weeks earlier. The Bureau's overarching explanation for the revocations was to prevent waste, fraud, and abuse in the Lifeline program.¹¹ By revoking the LBP ETC designations of carriers based on generalized concerns with the Lifeline program overall rather than with the applicants themselves, the Bureau was effectively modifying the Commission rule adopted in the *Lifeline*

⁷ Petition of Northland Cable Television, Inc. for Designation as a Lifeline Broadband Provider Eligible Telecommunications Carrier, WC Docket No. 09-197 (filed Dec. 14, 2016) ("Northland Petition").

⁸ *Id.* at 3971, 4007, paras. 29, 128.

⁹ *Telecommunications Carriers Eligible for Universal Service Support*, WC Docket No. 09-197, Order, DA 17-87 (rel. Jan. 18, 2017) ("January LBP Order").

¹⁰ See Revocation Order.

¹¹ *Id.* at paras. 7-8.

Modernization Order that gave the Bureau the discretion to grant LBP designations.¹² Creating a blanket ban—even a temporary one—is removing the Bureau’s discretion and therefore, modifying 54 C.F.R. § 54.202(e) without the required notice and comment process. In order for the Commission to modify a rule, it must first go through the notice and comment rule making process before the full Commission to comply with the Administrative Procedure Act (“APA”).¹³ While the revoked LBP ETC petitions are technically pending before the Bureau and are once again under consideration,¹⁴ the Bureau has made no indication that it is inclined to grant LBP ETC designations. Unless the Bureau begins granting LBP ETC designations, or defines a clear path forward towards LBP ETC designation for carriers that are eager to help close the digital divide, the Bureau has acted in violation of the APA. Therefore, it is imperative that the Bureau reconsider its Revocation Order.

C. Denying Any New Entrants to the Program is Completely Disproportionate to Any Remaining Program-Level Issues, Even if a Blanket Ban were Permissible

The Bureau’s broad allegations of widespread waste, fraud and abuse in the Lifeline program appears to be based on prior issues that have since been resolved or a misunderstanding of program procedures. While the Lifeline program was once plagued by structural deficiencies, the reforms implemented by the Commission in the 2012 *Lifeline Reform Order*,¹⁵ and further advanced in the *Lifeline Modernization Order*,¹⁶ have worked to drastically curb waste, fraud, and abuse. For example, in 2014 the Commission launched the National Lifeline Accountability Database (“NLAD”), and since that time has continually worked to strengthen the NLAD’s processes for identify and address verification to protect the Lifeline program from waste, fraud, and abuse.¹⁷ And soon, the new National Lifeline Verifier will make applicant eligibility determinations in lieu of ETCs making those determinations themselves, which will eliminate any systemic-level remaining waste, fraud, and abuse in the Lifeline program.

¹² See *Lifeline Modernization Order*, 31 FCC Rcd at 4065, para. 278; 47 C.F.R. § 54.202(d).

¹³ 5 U.S.C. § 553; See *Shalala v. Guernsey Mem’ Hosp*, 514 U.S. 87, 100 (1995) (stating that if an agency adopts “a new position inconsistent with” an existing regulation, or effects “a substantive change in the regulation,” notice and comment are required.); *U.S. Telecom Ass’n v. FCC*, 400 F.3d 29 (DC Cir. 2005).

¹⁴ Revocation Order at 5.

¹⁵ *In Re Lifeline and Link Up Reform and Modernization et al.*, Report and Order and Further Notice of Proposed Rulemaking, 27 FCC Rcd 6656 (FCC 2012).

¹⁶ See generally *Lifeline Modernization Order*.

¹⁷ See *id.* at 4105, para. 387.

Despite these significant advances that have saved the program many millions of dollars, the program still suffers from its former reputation.¹⁸ As was pointed out in a recent Democratic staff report of the U.S. House of Representatives Committee on Energy and Commerce, the allegations of fraud lobbed at the Lifeline program have been fraught with misunderstandings of how the program operates and overly simplistic calculations.¹⁹ Case in point: in 2015, Lifeline's improper payment rate was 2.64 percent (2.64%)²⁰ pursuant to the federal government's analysis under the Improper Payments Elimination and Recovery Improvement Act ("IPERIA"), whereby the federal government gathers data on improper payments made under federal government programs.²¹ E-Rate, another Universal Service program that provides broadband connectivity to schools and libraries and has been celebrated by both sides of the aisle, had a 2015 improper payment rate of roughly 5.7%, which is over twice that of the rate of the Lifeline program.²² Yet there are no calls to halt new entrants to the E-Rate program or malign the program as being riddled with waste, fraud and abuse. Consider that Medicaid's improper payment rate is 25.7%.²³ Northland is not advocating that any loopholes leading to improper payments should not be fixed. But the level of waste, fraud and abuse in the Lifeline program should be put into context and addressed with appropriate measures proportionate to any actual problems at hand.

To support its position that the Lifeline program is plagued with waste, fraud, and abuse, the

¹⁸ "Since 2012, the reforms adopted in the 2012 Lifeline Reform Order have successfully reduced waste, fraud, and abuse, and annual spending has fallen by \$600 million, with total estimated savings of more than \$2.75 billion through 2014, based on projections of how much would have been spent without the reforms of the 2012 Lifeline Reform Order." *See id.* at 4109, para. 398.

¹⁹ *The Lifeline Program Examining Recent Allegations of Waste, Fraud, and Abuse, Interim Report*, U.S. House of Representatives, Committee on Energy and Commerce, Ranking Member Frank Pallone, Jr., Democratic Staff Report (July 2016) available at <https://democrats-energycommerce.house.gov/sites/democrats.energycommerce.house.gov/files/Lifeline%20Oversight%20Report%20%287.12.2016%29.pdf>.

²⁰ *Federal Universal Service Support Mechanisms Fund Size Projections for First Quarter 2017 – Report to the FCC*, Universal Service Administrative Company at 8 (Nov. 2, 2016), available at <https://www.fundsforlearning.com/docs/2016/11/Federal%20Universal%20Service%20Mechanism%20Quarterly%20Demand%20Filing%201Q%202017.pdf> (USAC USF Report to FCC).

²¹ *See* Improper Payments Elimination and Recovery Improvement Act of 2012, Public Law 112-248 (2013).

²² USAC USF Report to FCC at 8.

²³ *Percentage Distribution of Improper Payments (FY 2016)*, Payment Accuracy.gov, <https://paymentaccuracy.gov/percentage-distribution-of-improper-payments/> (last visited Mar. 15, 2017).

Bureau cites to a single case where one provider admitted to violating the Commission's rules.²⁴ The Bureau's reliance on the past actions of Total Call Mobile is particularly misguided when considering new entrants such as Northland. In particular, Total Call Mobile was alleged to have utilized hundreds of non-employee sales agents to engage in fraudulent activity.²⁵ As a prospective LBP ETC, Northland has no plans to sell its facilities-based broadband services through the use of non-employee agents in the field. Therefore, it is particularly discouraging that the Bureau is choosing to hold the actions of a single actor, particularly one that is no longer in business, against an entire industry of broadband providers that seek to extend "the availability of broadband service for low-income Americans"²⁶ consistent with the Commission's stated goals.

The Bureau also cites to Chairman Pai's general concerns about waste, fraud, and abuse in the Lifeline program outlined in his July 2016 testimony before Congress.²⁷ However, the five allegations made in his testimony regarding waste, fraud, and abuse in the Lifeline program contain numerous inaccuracies concerning the current state of the Lifeline program.

In the first and fifth points of his testimony, it states that an ETC's ability to override the NLAD's address authentication procedure as a loophole in the Lifeline qualification process that several providers have exploited to introduce waste, fraud, and abuse into the Lifeline program.²⁸ To support his point, he claimed that 35.3 percent (35.3%) of all Lifeline subscribers were enrolled through the independent economic household ("IEH") override process thereby allowing multiple subscribers to receive a Lifeline benefit at the same address.²⁹ The testimony surmised that such a statistic is indicative of fraud in the Lifeline program, but this supposition neglects to consider that low-income Americans live in non-

²⁴ Revocation Order at 3.

²⁵ *Total Call Mobile Inc.*, Order, 31 FCC Rcd 13204, 13210-11, paras. 7-14 (2016).

²⁶ See *Lifeline Modernization Order*, 31 FCC Rcd at 3971, para. 29.

²⁷ Revocation Order at 3; See Testimony of FCC Commissioner Ajit Pai Before the Subcommittee on Communications and Technology of the United States House of Representatives Committee on Energy and Commerce, Oversight of the Federal Communications Commission, at 4-5 (July 12, 2016) ("Pai Testimony").

²⁸ Pai Testimony at 5.

²⁹ *Id.* at 4.

traditional housing situations at a much higher rate than the rest of the population of the United States.³⁰ For example, low-income Americans are much more likely to live in a shelter or split rent with roommates, and require the use of the IEH override process to obtain the Lifeline benefit at an address where other individuals are also receiving Lifeline-supported service. Therefore, the figure presented by in the testimony is likely entirely accurate *and* without fraud. At the very least, it tells one nothing about which IEH overrides are improper. The testimony inaccurately presented the figure as if all IEH overrides are indicative of fraud, but logic dictates that that cannot be the case. Further, upon the implementation of the National Lifeline Verifier all subscriber eligibility determinations will be made by the National Lifeline Verifier, not providers.³¹ Northland therefore encourages the Commission to focus its resources on efficient and effective implementation of the National Lifeline Verifier, rather than acting as a gatekeeper for new entrants.

Second, the testimony states that sixteen Lifeline wireless resellers, in addition to Total Call Mobile, fraudulently enrolled duplicate subscribers.³² However, the cited data does not appear to represent actual duplicates, but rather subscribers identified by the Universal Service Administrative Company (“USAC”) as *possible* duplicates based on some standard known only by USAC. In a series of enforcement cases in 2013, USAC alleged that individuals with similar names and addresses as duplicates even though this does not conform to the FCC’s standard for what constitutes a duplicate.³³ USAC may be again utilizing the same or similar faulty logic in determining which subscribers to identify as duplicates. Further, to the extent that this data did represent real duplicates within the Lifeline program, the testimony specifically referenced Lifeline wireless resellers. Providers of facilities based service that offer a Lifeline-supported discount off of their normal services, like Northland, are far less susceptible to having systemic duplicates issues because there is only one physical connection per residential address

³⁰ See Letter from Debra Berlyn, Chairperson, FCC Consumer Advisory Committee, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 11-42 et. al at 4 (filed Nov. 4, 2011).

³¹ See *Lifeline Modernization Order*, 31 FCC Rcd. at 4006-21, paras. 126-166.

³² Pai Testimony at 4-5.

³³ See e.g., *Easy Telephone Services d/b/a Easy Wireless*, Notice of Apparent Liability for Forfeiture, 28 FCC Rcd 14433 (EB Sept. 30, 2013); *Assist Wireless, LLC*, Notice of Apparent Liability for Forfeiture, 28 FCC Rcd 14456 (EB Sept. 30, 2013).

unlike mobile wireless handsets.

Third, the testimony states that “the NLAD does not prevent wireless resellers from requesting and receiving federal subsidies for subscribers who are not enrolled in the NLAD.”³⁴ It is unclear why this statement is targeted at wireless providers. Regardless of whether an ETC provides wireless or wireline services, all ETCs submit the same FCC Form 497 to USAC to receive Lifeline support.³⁵ Moreover, Northland entirely supports a change to the disbursement workflow to require USAC to disburse Lifeline support based off of the subscriber count in NLAD.³⁶ Currently, however, this is not the reality of the Lifeline disbursement process, and the testimony fails to provide any evidence of carriers blithely submitting FCC Form 497s without regard to their NLAD subscriber counts.

Fourth, the testimony alleged that an ETC’s ability to override the NLAD’s third-party identity verification (“TPIV”) functionality as a loophole in the Lifeline qualification process that several providers have exploited to introduce waste, fraud, and abuse into the Lifeline program.³⁷ However, the algorithms utilized in the NLAD TPIV review are designed to treat non-low-income individuals as the “norm,” which leads the algorithm to more often flag the identity profiles of low-income individuals as problematic. For example, individuals with composite last names, such as those often used by the Latino population, may not always be presented in a consistent manner, which leads to a failed TPIV validation. USAC specifically designed the override process because it witnessed the limitations of the TPIV algorithms first hand when the NLAD was launched. The TPIV override process is critical to ensure that qualified individuals with “non-standard” identity profiles can still obtain Lifeline supported service.³⁸ Should any provider be found to utilize the TPIV override functionality on an unusually frequent basis, Northland encourages the Commission and USAC to make use of their respective audit authority to

³⁴ Pai Testimony at 5.

³⁵ Receive Payment (FCC Form 497), USAC, available at <http://usac.org/li/program-requirements/receive-payment/> (last visited Mar. 10, 2017).

³⁶ Indeed this is something that the Commission has considered. See Lifeline and Link Up Reform and Modernization et al., Second Further Notice of Proposed Rulemaking, Order on Reconsideration, Second Report and Order, and Memorandum Opinion and Order, 30 FCC Rcd 7818, 7879, para. 181 (2015).

³⁷ Pai Testimony at 5.

³⁸ Third Party Identity Verification (TPIV) Failure Resolution, USAC, available at <http://www.usac.org/li/tools/nlad/dispute-resolution/tpiv-failure-dr.aspx> (last visited Mar. 10, 2017).

ensure the provider is not engaging in waste, fraud, or abuse of the Lifeline program. Upon the implementation of the National Lifeline Verifier all subscriber eligibility determinations will be made by the National Lifeline Verifier outside of the manipulation of providers.³⁹ Therefore, to the extent that the TPIV override process is a source of concern, the Commission should focus on the efficient and effective implementation of the National Lifeline Verifier.

D. The Bureau Incorrectly Points to Section 54.202(c) Obligations as a Basis for Revoking All Previously Granted LBP ETC Designations

Northland, and certain other providers that received LBP ETC designations from the Bureau, did not seek to serve Tribal areas and was not subject to the obligations under Section 54.202(c), which the Bureau seemingly relied on to revoke *all* existing LBP ETC designations.⁴⁰ Under section 54.202(c) of the Commission's rules, the Bureau reasoned that LBP ETC applicants were required to share a copy of their LBP ETC petition with the affected Tribal governments.⁴¹ Disregarding the question of whether the Bureau is correct in its analysis of section 54.202(c) and its associated obligations, Northland did not seek LBP ETC designation in any Tribal areas.⁴² Therefore, the Bureau's decision to revoke certain LBP ETC designations because of their failure to comply with section 54.202(c) of the Commission's rules cannot apply to Northland or any other provider that did not seek to provide Lifeline-supported service on Tribal lands.

E. The Bureau's Decision to Revoke All LBP ETC Designations Due to the Lack of a Notice and Comment Period is Flawed

The Bureau's decision to revoke certain LBP ETC designations because they were granted prior to the lapse of the 30-day public comment period, does not apply to Northland, or any of the LBP ETC designations granted in the January LBP Order, because its application was granted subsequent to the tolling of its associated 30-day comment deadline.⁴³ Northland's 30-day public comment deadline tolled on January 14, 2017, and therefore, the grant of its Petition on January 18, 2017 was not in violation of

³⁹ See *Lifeline Modernization Order*, 31 FCC Rcd. at 4006-21, paras. 126-166.

⁴⁰ Revocation Order at 4.

⁴¹ See *id.* 47 C.F.R. § 54.202(c).

⁴² Northland Petition at Ex. A.

⁴³ Revocation Order at 5.

the public comment period requirement.⁴⁴ Furthermore, the Commission failed to provide any indication that petitions for LBP ETC designation would be subject to a public comment deadline in either the *Lifeline Modernization Order* or the *LBP ETC Public Notice*.⁴⁵ Therefore, reliance by the Bureau to revoke all LBP ETC designations on the fact that effective notice and comment was not provided to the public is flawed and must be reconsidered.

F. Revocation of the LBP ETC Designations Was Not in the Public Interest

When the Bureau granted each of the nine LBP ETC designations revoked by the Revocation Order, it inherently determined that designation of each provider as an LBP ETC was in the public interest.⁴⁶ Designation of each provider as an LBP ETC furthered the Commission's overarching policy goals of "ensur[ing] the availability of broadband service for low-income Americans,"⁴⁷ and "encourag[ing] market entry and increas[ing] competition among Lifeline providers."⁴⁸ Further, Chairman Pai has stated that one of the biggest challenges facing our nation is closing the "digital divide."⁴⁹ To that end, he provided a number of ways he plans to spur broadband deployment in rural areas in his "Digital Empowerment Agenda," and stated that "we must empower American living in every community in our nation – from our urban cores to rural towns – with online opportunities."⁵⁰ The entry of facilities-based broadband providers into the Lifeline market, particularly in rural areas, like Northland, perfectly aligns with Commission's stated goals to increase rural broadband availability, and was a marked contrast from the wireless resellers that previously dominated the market. The Bureau's decision to revoke the LBP ETC designations makes absolutely no sense at a time when the Commission seeks to incentivize rural broadband

⁴⁴ *Lifeline Broadband Provider Petitions & Public Comment Periods*, FCC (February 8, 2017) available at <https://www.fcc.gov/lifeline-broadband-provider-petitions-public-comment-periods>.

⁴⁵ See *Lifeline Modernization Order*; *Wireline Competition Bureau Provides Guidance Regarding Designation as a Lifeline Broadband Provider and Lifeline Broadband Minimum Service Standards*, Public Notice, DA 16-1118, para. 10 (2016) (LBP ETC Public Notice).

⁴⁶ 47 C.F.R. § 54.202.

⁴⁷ See *Lifeline Modernization Order*, 31 FCC Rcd at 3971, para. 29.

⁴⁸ See *id.* at 4040, para. 217.

⁴⁹ *Remarks of Ajit Pai*, Chairman, Federal Communications Commission, (rel. Jan. 24, 2017) available at http://transition.fcc.gov/Daily_Releases/Daily_Business/2017/db0124/DOC-343184A1.pdf ("Pai Remarks on Digital Divide").

⁵⁰ *Summary of FCC Commissioner Ajit Pai's Digital Empowerment Agenda*, FCC (Sept. 13, 2016) available at https://apps.fcc.gov/edocs_public/attachmatch/DOC-341210A2.pdf.

availability. As a result, the Bureau's decision was met with a severe backlash from both media and the public.⁵¹ To truly close the digital divide, the Commission needs facilities-based broadband providers that are focused on serving low-income Americans in rural areas. Therefore, it is essential that the Bureau reconsider its Revocation Order and reinstate the LBP ETC designations.

CONCLUSION

Northland and eight other carriers previously designated as LBP ETCs stand ready to answer the Commission's call to expand the "the availability of broadband service for low-income Americans."⁵² The Bureau's hurried decision to revoke its previously issued LBP ETC designations without any reasoned rational basis, however, has left Northland and several other providers without a clear path forward on how to effectively expand access to broadband and close the digital divide, particularly in rural areas.⁵³ Therefore, for the reasons described above, Northland supports the Public Interest Petition for Reconsideration, and urges the Bureau to reconsider its decision to revoke all previously granted LBP ETC designations.

Respectfully submitted,



Danielle Frappier
Davis Wright Tremaine LLP
1919 Pennsylvania Avenue, NW, Suite 800
Washington, DC 20006 – 3401

⁵¹ See e.g., The FCC is stopping 9 companies from providing federally subsidized Internet to the poor, Washington Post (Feb. 3, 2017) https://www.washingtonpost.com/news/the-switch/wp/2017/02/03/the-fcc-is-stopping-9-companies-from-providing-subsidized-broadband-to-the-poor/?utm_term=.dad0b8b9bdb8; FCC chair stuns consumer advocates with move that could hurt poor people, ARS Technica (Feb. 6, 2017) <https://arstechnica.com/tech-policy/2017/02/advocates-for-poor-people-stunned-by-fcc-move-to-limit-low-cost-broadband/>.

⁵² See *Lifeline Modernization Order*, 31 FCC Rcd at 3971, para. 29.

⁵³ See Pai Remarks on Digital Divide.